

DRAWING AMENDMENTS

A new reference character "3", for a newly added element that was described in the original specification, has been amended to Figs. 4A and 4B of the drawings in red ink along with the new element. A drawing amendment approval request form is enclosed herewith, as pursuant to MPEP 608.02(v).

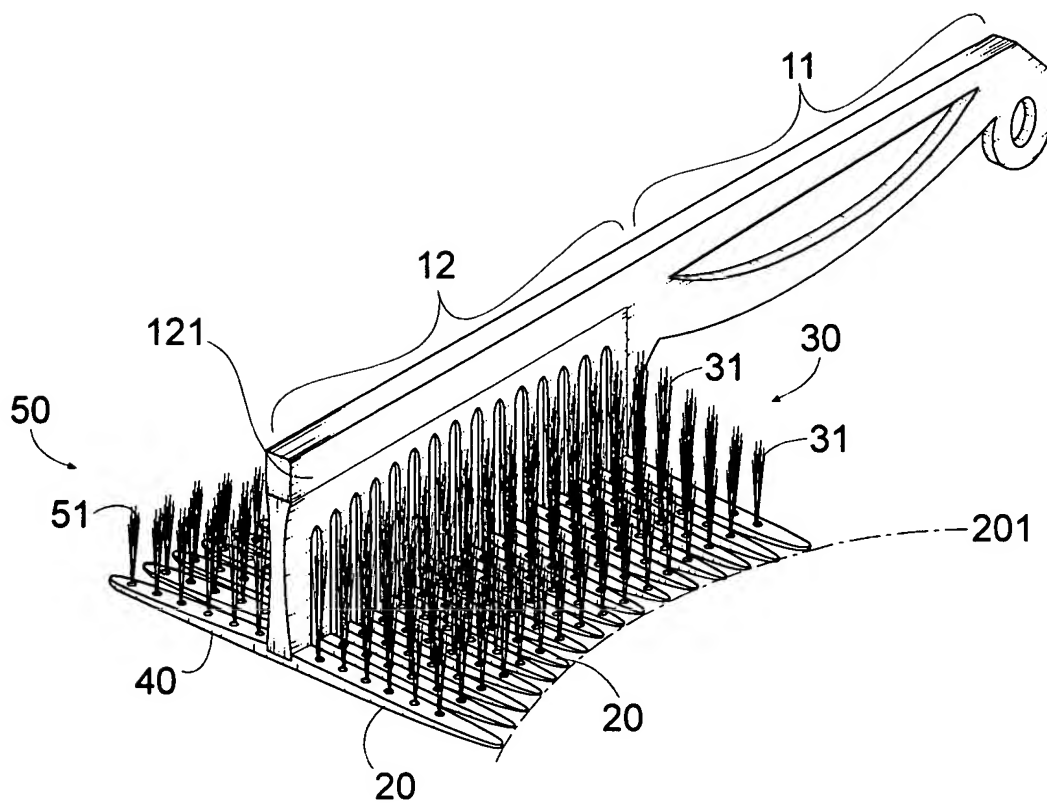


FIG. 1



FIG. 2

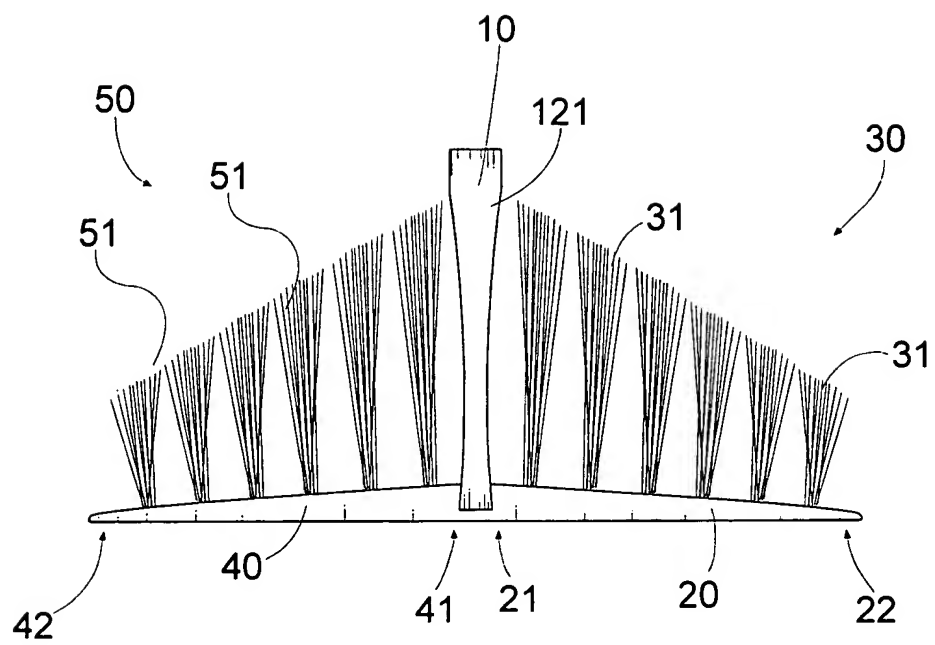


FIG. 3

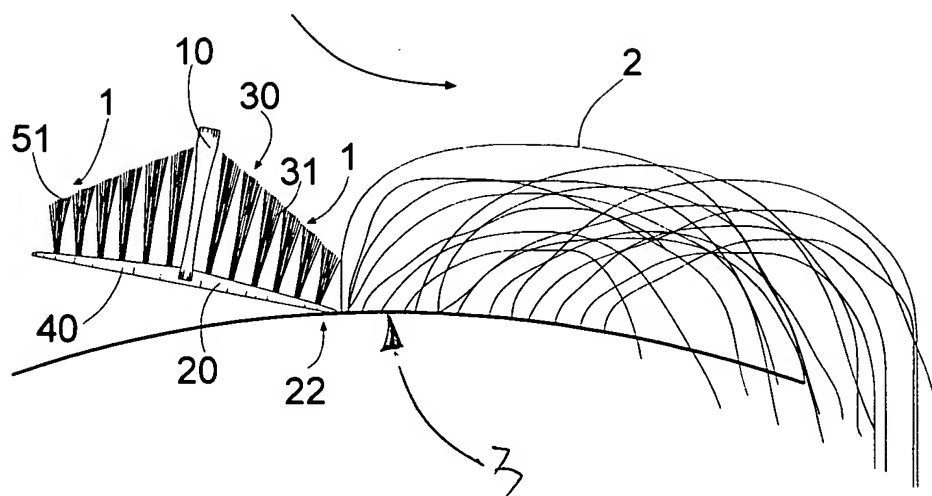


FIG. 4 A

Proposed Drawing Correction

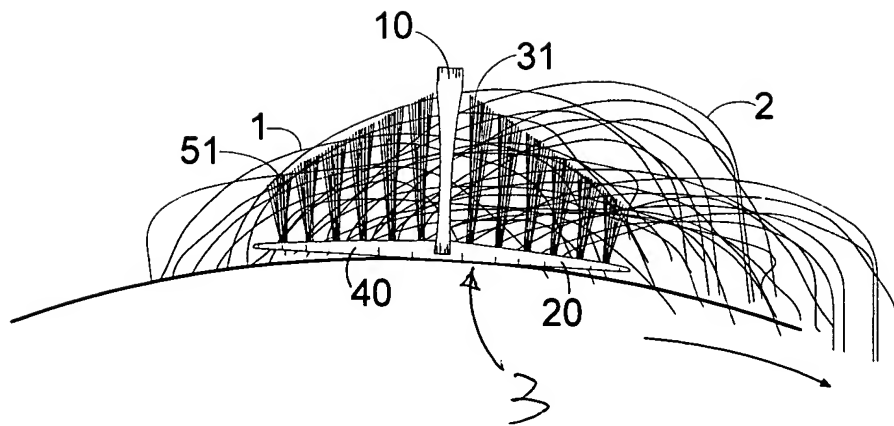


FIG. 4 B

Proposed Drawing Correction

REMARKS-General

1. The amended independent claim 1 incorporates all structural limitations of the original claim 1 and includes further limitations previously brought forth in the disclosure. No new matter has been included. All claims 1-20 are submitted to be of sufficient clarity and detail to enable a person of average skill in the art to make and use the instant invention, so as to be pursuant to 35 USC 112.

Regarding to Rejection of Claims 1, 3, 5, 8, 9 and 11 under 35USC102

2. The Examiner rejected claims 1, 3, 5, 8, 9 and 11 under 35USC102(b) as being anticipated by Chiraello (US 2,185,050)

3. Pursuant to 35 U.S.C. 102, "a person shall be entitled to a patent unless:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States.

4. In view of 35 U.S.C. 102(b), it is apparent that a person shall not be entitled to a patent when his or her invention was patent in this country more than one year prior to the date of the application for patent in the United States.

5. However, the Chiraello patent and the instant invention are not the same invention according to the fact that the independent claim 1 of the Chiraello patent does not read upon the instant invention and the independent claim 1 of the instant invention does not read upon the Chiraello patent too. Apparently, the instant invention, which discloses a hair combing apparatus for hair coloring and the like, should not be the same invention as the Chiraello patent which discloses a combined brush and comb.

6. Chiraello fails to anticipate the distinctive features as follows:

(a) In claim 1, "an elongated comb body comprises a **guiding wall** downwardly extended from a guiding portion which is extended from a handle portion" is claimed, wherein Chiraello fails to teach and anticipate any guiding wall formed at the combined comb.

(b) In claim 1, “a plurality of combing teeth transversely and spacedly extended along a bottom edge of the guiding wall of the comb body to form **a L-shape structure**” is claimed, wherein Chiraello merely teaches the teeth 7 are downwardly extended from the combined comb without any mention of any tooth transversely extended from the combined comb to form a L-shape structure. In addition, NO conventional comb, including the combined comb of Chiraello, has such L-shaped cross section by transversely extending the combining teeth from the guiding wall.

(c) In claim 1, “a plurality of brush members upwardly and spacedly extended along each of the combing teeth” is claimed to contact with hairs of the user, wherein Chiraello merely teaches the bristles are extended to the free ends of the teeth without any mention of any brush member extended from the combing teeth in relation to the guiding wall. Accordingly, the instant invention discloses the combining teeth are transversely extended from the comb body and the brush members are upwardly extended from the combing teeth. In other words, the brush members are extended parallelly to the comb body as shown in Fig. 1. The structure of the instant invention is unique and the combined comb of Chiraello is not equivalent to the instant invention.

(d) Claim 1 discloses the operation of the instant invention that the outer ends of the combing teeth are slid on the scalp of the user to guide roots of the hairs to contact with the brush members so as to evenly apply the colorant through the roots of the hair to the ends thereof. Chiraello merely teaches the operation of the combined comb, in column 2, lines 29-32, by holding the body portion with the side faces of the teeth in horizontal positions, the combined comb may be used as a hair brush, to brush the hair after combing. Chiraello merely discloses the hair will be combed and brushed at on operation. However, the user does not require to hold the comb body of the instant invention in horizontal position because the combing teeth are transversely extended from the comb body. Furthermore, Chiraello never mention the combined comb thereof is able to apply the colorant on the bristles for hair coloring and how to evenly apply the colorant throughout the roots of the hairs to the ends thereof.

(e) In claim 3, “the outer end of the combing teeth is shaped to have a **tapered shape**” is claimed for efficiently guiding the respective combing tooth to comb the user’s hairs, wherein Chiraello merely discloses, in Figs. 1 and 2, the teeth has an enlarged head with a tapered end.

(f) In claim 5, “the brush members are gradually reduced the heights thereof at a direction from an inner end of the respective combing tooth to the outer end thereof” is claimed, wherein Chiraello merely teaches the bristles are gradually increased in length towards the body portion of the combined comb. It is apparent that Chiraello fails to teach and anticipate the same recitation and limitation in the claim 5 of the instant invention of providing the brush members along each of the combing teeth which is transversely extended from the comb body.

(g) In claims 8 and 9, “each of the brush members comprises a plurality of bristles upwardly extended from the respective combing tooth” is claimed for enhancing a contacting area between the respective brush member and the user’s hairs, wherein Chiraello merely teaches the bristles are sidewardly extended from the teeth to brush the hairs.

(h) Chiraello fails to teach and anticipate “a plurality of **guiding through slots** spacedly formed on the guiding portion of the comb body” wherein each of the guiding through slots is formed on the guiding wall at a position between each the combing teeth so as to communicate with a guiding groove defined between each two combing teeth. Accordingly, Chiraello merely teaches a slot is formed between each two teeth which is not equivalent to the guiding through slot of the instant invention.

7. Accordingly, applicant believes that the rejection of claims 1, 3, 5, 8, 9 and 11 is improper and should be withdrawn.

Response to Rejection of Claims 1, 2, 4, 6, 7, 10, and 12-20 under 35USC103

8. The Examiner rejected claims 2, 4, 6, 7, 10, and 12-14 over Chiraello in view of Fuentes (US 2,610,637), and claims 1, 2, 4, 7, 10, 14 and 15-20 over Jobson (US 302,734) in view of Chiraello and Fuentes and further in view of Hope (US 1,370,649).

9. Pursuant to 35 U.S.C. 103: “(a) A patent may not be obtained thought the invention is **not identically** disclosed or described as set forth in **section 102 of this title**, if the **differences** between the subject matter sought to be patented and the prior art are such that the **subject matter as a whole would have been obvious** at the time the invention was made to a person having ordinary skill in the art to which said subject

matter pertains. Patentability shall not be negated by the manner in which the invention was made.”

10. In view of 35 U.S.C. 103(a), it is apparent that to be qualified as a prior art under 35USC103(a), the prior art must be cited under 35USC102(a)~(g) but the disclosure of the prior art and the invention are not identical and there are one or more differences between the subject matter sought to be patented and the prior art. In addition, such differences between the subject matter sought to be patented **as a whole** and the prior art are obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

11. In other words, the differences between the subject matter sought to be patent as a whole of the instant invention and the cited arts, Chiraello and Jobson, which are qualified as prior art of the instant invention under 35USC102(b) are obvious in view of Chiraello and Fuentes at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

12. The applicant respectfully submits that in order to determine whether the differences between the subject matters sought to be patent as a whole of the instant invention and the primary prior arts, Chiraello and Jobson, are obvious in view of the supplemental cited arts, Chiraello and Fuentes, we have to identify all the differences between the claims of the instant inventions, Chiraello and Jobson. Accordingly, the difference between Chiraello and the instant invention as claimed in claims 1, 3, 5, 8, 9 and 11 is not limited to the disclosure of “comb with teeth and bristles”, but includes the above distinctive features (a) to (h). The applicant further identifies the differences between the claims of the instant invention, Chiraello and Jobson as follows:

(i) In claim 1, Jobson fails to teach the distinctive features (a) to (h) as particularly mentioned above. Accordingly, Jobson merely teaches a hair-cutter having two combs arranged at an angle to each other and having their backs joined without any mention of any guiding wall downwardly extended from the comb body and combing teeth transversely extended from a bottom edge of the guiding wall. In addition, Jobson does not mention any brush member upwardly extended along the combing tooth to apply colorant on the bristles for hair coloring.

(j) In claim 2, “the combing teeth are gradually increased with said lengths thereof to form a curved contacting line by the outer ends of the combing teeth” is claimed for fittingly contacting with a curvature of the scalp of the user as claimed in claim 2 in addition to what is claimed in claim 1 as a whole. Chiraello and Jobson never mention any curved contacting line formed at the ends of the teeth.

(k) Chiraello and Jobson does not mention any of “each of the combing teeth is perpendicularly extended from the bottom edge of the guiding wall of the comb body to form the L-shaped structure” as claimed in claims 15-17 in addition to what is claimed in claim 1 as a whole. Chiraello merely teaches the teeth extended from the combined comb. Jobson merely teaches two sets of teeth extended from the main comb.

(l) Jobson fails to teach “a plurality of additional combing teeth transversely and spacedly extended along the bottom edge of the guiding wall at a **direction opposed** to the combing teeth and a plurality of additional brush members upwardly and spacedly extended along each of the additional combing teeth” as claimed in claims 18-20 in addition to what is claimed in claim 1 as a whole. Jobson does not mention the two sets of teeth are opposedly extended and any brush member provided on the teeth.

13. Whether the claims 1 to 20 as amended of the instant invention are obvious depends on whether the above differences (a) to (l) between the instant invention, Chiraello and Jobson are obvious in view of Chiraello, Fuentes and Hope at the time of the invention was made.

14. Furthermore, the applicant respectfully submits that when applying 35 USC 103, the following tenets of patent law must be adhered to:

- (a) The claimed invention must be considered as a whole;
- (b) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
- (c) The references must be viewed without the benefit of hindsight vision afforded by the claimed invention; and
- (d) Reasonable expectation of success is the standard with which obviousness is determined.

Also, "The mere fact that a reference could be modified to produce the patented invention would not make the modification obvious unless it is suggested by the prior art." Libbey-Owens-Ford v. BOC Group, 4 USPQ 2d 1097, 1103 (DCNJ 1987).

15. Fuentes merely teaches the bristles are projected from one side of the body without any suggestion of how such bristles be possibly formed on the comb teeth.

16. Hope merely teaches two rows of bristles connected or inserted in the back of the comb without any mention of forming the bristles at the teeth.

17. "To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness. In other words, the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited art references for combination in the manner claimed... [T]he suggestion to combine requirement stands as a critical safeguard against hindsight analysis and rote application of the legal test for obviousness..." In re Gorman, 933 F.2d 982, 986, 18 USPQ 2d 1885, 1888 (Fed. Cir. 1991).

18. Accordingly, the applicant believes that neither Chiraello, Jobson, Fuentes nor Hope, separately or in combination, suggest or make any mention whatsoever of the difference subject features (a) to (l) as claimed in the amended claims 1 to 20 of the instant invention.

19. Applicant believes that for all of the foregoing reasons, all of the claims are in condition for allowance and such action is respectfully requested.

The Cited but Non-Applied References

20. The cited but not relied upon references have been studied and are greatly appreciated, but are deemed to be less relevant than the relied upon references.

21. A set of formal drawings, Figures 4A and 4B, are submitted herewith to replace the corresponding original figures in file upon the approval of the proposed drawing correction of Figure 4A and 4B.

22. In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of the objection are requested. Allowance of claims 1-20 at an early date is solicited.

23. Should the Examiner believe that anything further is needed in order to place the application in condition for allowance, he is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,




Raymond Y. Chan
Reg. Nr.: 37,484
108 N. Ynez Ave.
Suite 128
Monterey Park, CA 91754
Tel.: 1-626-571-9812
Fax.: 1-626-571-9813

CERTIFICATE OF MAILING

I hereby certify that this corresponding is being deposited with the United States Postal Service by First Class Mail, with sufficient postage, in an envelope addressed to "Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on the date below.

Date: 11/18/2005

Signature: 
Person Signing: Raymond Y. Chan